

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**HOUSE BILL 494**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003**

**INTRODUCED BY**

Luciano "Lucky" Varela

**AN ACT**

**RELATING TO ECONOMIC DEVELOPMENT; ENACTING THE ECONOMIC DEVELOPMENT CORPORATION ACT; CREATING A NONPROFIT CORPORATION, SEPARATE AND APART FROM THE STATE, TO CARRY OUT ECONOMIC DEVELOPMENT ACTIVITIES.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. SHORT TITLE.** -- This act may be cited as the "Economic Development Corporation Act".

**Section 2. PURPOSES.** -- The purposes of the Economic Development Corporation Act are to:

**A. promote, stimulate, develop and advance business, prosperity, employment and economic welfare in the state and among its citizens;**

**B. encourage and assist the location of new business and industry in this state and the rehabilitation and**

**. 143356. 2GR**

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 expansion of existing business and industry;

2 C. cooperate and act in conjunction with other  
3 organizations, public or private, in the promotion and  
4 advancement of industrial, commercial, agricultural and  
5 recreational developments in the state; and

6 D. provide for the creation of a nonprofit  
7 corporation with the responsibility to work with communities  
8 throughout New Mexico in effectuating these purposes in a  
9 manner that can be quantified and measured.

10 Section 3. CORPORATION AUTHORIZED-- BOARD OF DIRECTORS--  
11 ORGANIZATION-- LIMITATION OF LIABILITY. --

12 A. A nonprofit organization to provide economic  
13 development services to the state is authorized to be organized  
14 and formed under the provisions of the Nonprofit Corporation  
15 Act and the Economic Development Corporation Act.

16 B. The corporation shall be governed by a board of  
17 directors composed of fifteen members as follows:

18 (1) the secretary of economic development;

19 (2) one economic development professional,  
20 appointed by the governor, from each regional planning  
21 district, provided that no more than four of the economic  
22 development professionals shall be members of the same  
23 political party; and

24 (3) one professional businessperson, appointed  
25 by the governor, from each regional planning district, provided

. 143356. 2GR

underscored material = new  
[bracketed material] = delete

1 that no more than four of the professional businesspersons  
2 shall be members of the same political party.

3 C. The governor shall appoint a chair and the board  
4 of directors shall elect other officers as the board deems  
5 necessary.

6 D. The board of directors shall adopt bylaws, in  
7 accordance with the provisions of the Nonprofit Corporation  
8 Act, governing the conduct of the corporation in the  
9 performance of its duties under the Economic Development  
10 Corporation Act.

11 E. The board of directors shall hire a president  
12 who shall be the chief administrative officer of the  
13 corporation and be responsible for its operations.

14 F. A director, the president or another officer  
15 shall not be personally liable for any damages resulting from:

16 (1) any negligent act or omission of an  
17 employee of the corporation;

18 (2) any negligent act or omission of another  
19 director or officer of the corporation; or

20 (3) any action taken as a director or officer  
21 or a failure to take any action as a director or officer unless  
22 the director or officer has breached or failed to perform the  
23 duties of his office and the breach or failure to perform  
24 constitutes willful misconduct or recklessness.

25 Section 4. CORPORATION--POWERS.--The corporation shall

. 143356. 2GR

underscored material = new  
[bracketed material] = delete

1 have the powers conferred upon domestic nonprofit corporations  
2 by the Nonprofit Corporation Act unless otherwise specified in  
3 the Economic Development Corporation Act and shall also have  
4 the power to:

5 A. sue and be sued in its corporate name;

6 B. purchase, take, receive or otherwise acquire;  
7 own, hold, dispose of or use; and otherwise deal in and with  
8 property, including an interest in or ownership of intangible  
9 personal property, intellectual property or technological  
10 innovations;

11 C. sell, convey, pledge, exchange, transfer or  
12 otherwise dispose of its assets and properties for  
13 consideration upon terms and conditions that the corporation  
14 shall determine;

15 D. make contracts, incur liabilities or borrow  
16 money at rates of interest that the corporation may determine;

17 E. make and execute all contracts, agreements or  
18 instruments necessary or convenient in the exercise of the  
19 powers and functions granted the corporation by the Economic  
20 Development Corporation Act;

21 F. receive and administer grants, contracts and  
22 private gifts;

23 G. invest and reinvest its funds;

24 H. conduct its activities, carry on its operations,  
25 have offices and exercise the powers granted by the Economic

. 143356. 2GR

underscoring material = new  
[bracketed material] = delete

1 Development Corporation Act;

2 I. employ officers and employees that it deems  
3 necessary, set their compensation and prescribe their duties;

4 J. enter into agreements with insurance carriers to  
5 insure against any loss in connection with its operations;

6 K. authorize retirement programs and other benefits  
7 for salaried officers and employees of the corporation; and

8 L. contract with economic development experts and  
9 other experts and consultants that may be required and to fix  
10 and pay their compensation.

11 Section 5. CORPORATION--DUTIES.--Pursuant to policies  
12 established by its board of directors and as directed by its  
13 president, the corporation shall:

14 A. establish relationships with communities  
15 throughout New Mexico in order to understand their economic  
16 development goals;

17 B. work for those communities in recruiting the  
18 types of businesses and jobs that have been identified by the  
19 communities;

20 C. solicit economic development funds from federal  
21 and private sources;

22 D. participate in economic development conferences  
23 and job fairs in order to educate businesses throughout the  
24 country and the world on the economic benefits and other  
25 attractions of New Mexico;

. 143356. 2GR

1 E. sponsor such forums and conferences as are  
2 necessary in order to empower New Mexico businesses and  
3 citizens with those business skills needed to compete in a  
4 worldwide economy; and

5 F. perform such other activities as are needed to  
6 further the purposes of the Economic Development Corporation  
7 Act.

8 Section 6. APPLICATION OF OTHER LAWS. --

9 A. The corporation formed pursuant to the Economic  
10 Development Corporation Act is separate and apart from the  
11 state and shall not be deemed an agency, public body or other  
12 political subdivision of New Mexico for purposes of applying  
13 laws relating to personnel, procurement of goods and services,  
14 meetings of the board of directors, gross receipts tax,  
15 disposition or acquisition of property, capital outlays, per  
16 diem and mileage and inspection of records.

17 B. The corporation, its officers, directors and  
18 employees shall be granted immunity from liability for any tort  
19 as provided in the Tort Claims Act and may enter into  
20 agreements with insurance carriers to insure against a loss in  
21 connection with its operations even though the loss may be  
22 included among losses covered by the risk management fund of  
23 New Mexico.